

Remarks/Arguments

Claims 11-19 are pending.

New claim 20 has been added. It recites "wherein the dermatological preparation consisting essentially of ectoine or hydroxyectoine or a pharmacologically compatible salt thereof." Support for this amendment can be found from the examples 1-4.

New claim 21 is directed to a dermatological preparation that comprises of ectoine or hydroxyectoine or a pharmacologically compatible salt thereof in the absence of a glucocorticoid. Support for this is obtained from the working examples and others part of the specification, to wit:

"Aside from the effects occurring quickly this means a substantial medical advancement, particularly when applied on a long-term basis, because the known and numerous adverse effects of glucocorticoids can practically be avoided entirely by this invention."(see page 4 of the English translation of the specifications, paragraph four).

The rejection of claims 11, 14-20 under 35 USC 103(a) as being unpatentable variously over Motitschke et al. in view of Hanifin and Touito, is respectfully traversed.

First, Hanifin does not, per se, report that any and all moisturizers are effective for treating atopic dermatitis. In their study they only looked at a single moisturizer. Most notably, however, Hanifin only reports a positive effect of their moisturizer in the presence of a corticosteroid, to wit:

"not only was desonide lotion alone effective in treating mild-to-moderate atopic dermatitis, but the addition of the moisturizing cream produced significant incremental reductions of up to 23%..." (emphasis added; see page 232, last paragraph).

Thus, Hanifin does not disclose that moisturizers alone (without Hanifin's corticosteroid) are effective in the treatment of atopic dermatitis. Accordingly, a person of skill in the art would not necessarily be motivated to test ONLY moisturizers for treating atopic dermatitis.

Second, even if Hanifin provided a motivation to test moisturizers alone for treating atopic dermatitis, which it clearly does not, the Motitschke reference itself is deficient because it discloses the use of ectoine and hydroxyectoine only for the treatment of "normal" dry skin and not neurodermatitis. Indeed, a person of skill in the art would appreciate that the two 'conditions' are clearly distinct. For instance, dry skin can result, for example, from a cold dry atmosphere, and thus can affect almost all individuals under certain environmental circumstances. Atopic dermatitis (i.e. neurodermatitis) is, however, a genetic medical condition, mainly dominated by an inflammation process, namely by infiltration of inflammation cells from the blood into the skin. Accordingly, just because Motitschke found that ectoin was an effective moisturizer for the treatment of dry skin does not necessarily mean that ectoin would treat neurodermatitis.

Third, such uncertainty/unpredictability of whether a particular moisturizer would be effective for dermatitis is exacerbated by the fact that there are an infinite number of compounds that have been used as moisturizers, and the absence of any link between the type of compounds capable of curing both dry skin and dermatitis. Indeed, a very well known and effective moisturizer, urea, can not be used for the treatment of atopic dermatitis because it is not tolerated by patients suffering from atopic dermatitis.

In sum, it would not be obviousness to a person of skill in the art that ectoine and hydroxyectoine could also be used for neurodermatitis, as claimed.

New claim 20 is, in addition to the above arguments, separately traversed. Applicant's claim recites "consisting essentially of." As noted in the MPEP, the transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps "and those that do not materially affect the basic and novel characteristic(s)" of the claimed invention. In the instant rejection, Hanifin

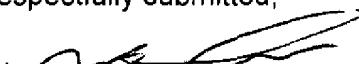
discloses only the use of corticosteroids, with or without a non-ectoin moisturizer, and is accordingly not appropriate prior art. Thus, this claim should be independently allowed.

No other issues remaining, applicant believes the claims are all in condition for allowance and respectfully solicits a Notice of Allowance.

The Commissioner is hereby authorized to charge payment of any fees required associated with this communication or credit any overpayment to Deposit Account No. 50-3881. If an extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 50-3881.

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Respectfully submitted,

By 
Richard Y.M. Tun, Reg. No.: 56,594
BERLINER & ASSOCIATES
555 West Fifth Street, 31st Floor
Los Angeles, California 90013
(213) 533-4175
(Fax) (213) 522-4174
Attorneys for Applicant